

RM6276 Insourcing vs worker supply guidance

This guidance document is intended to support trusts in understanding the key differences between insourcing agreements and the supply of ad-hoc or line of work temporary workers.

The key differentiator is whether the contract is for a **Provision of Service** (insourcing) or **Supply of Resource** (temporary workers). Below demonstrates the differences between the two.

	Provision of Service (insourcing)	Supply of Resource (temporary workers)
Definition	The provision of medical specialty, consultant-led surgical or clinical services, which are deployed to a trust within existing structures, using a trusts own facilities and equipment, and utilising spare, out-of-hours capacity, typically at weekends and evenings, within a trust. Clinical governance and oversight of the service sits solely with the supplier, and not with the trust. The trust has no responsibility for direction or supervision of the workers providing the service.	The provision of a worker(s) typically supplied by an agency to work temporarily under the supervision and direction of the trust
Contract deliverables	Based on specific outputs and deliverables which the supplier is solely responsible for delivering. For example, deliver 20 diagnostic scans per day.	Based on the supply of a suitable worker for the duration required i.e. to cover a shift(s). The trust is responsible for the supervision and direction of the worker(s). For example, supply of a B5 Registered Nurse to a trust site 8am-8pm on Saturdays and Sundays.

	Provision of Service (insourcing)	Supply of Resource (temporary workers)
Typical payment mechanism	Discount % off NHS Payment Scheme (formerly known as NHS National Tariff)	Total hourly/daily Charge Rate (including pay).
Liabilities	Insurance and other liabilities sit with the supplier. For example, the supplier retains responsibility for claims such as clinical negligence. Any claim would be made from the supplier's own insurance and not covered under the NHS Resolution Indemnity Scheme*.	As the worker(s) is under supervision, direction and/or control of the trust, then liability shall remain with the trust. Where the trust is a member, the liability of worker(s) is covered under the NHS Indemnity Scheme.
Example	An NHS trust contracts with an external company to carry out elective inpatient and day case theatre activity over the course of a four-month period to support a variety of individual (surgical) specialties. Provision will be in the form of a theatre team, admission/recovery team, anaesthetist and surgeon to run two all day sessions in parallel on Saturdays and Sundays. The supplier shall provide such services at 20% off the NHS Payment Scheme.	An NHS trust contracts with a temporary staffing agency to supply 5 x B5 Theatre Nurses to work on shift rotation with a total charge rate of £20 per hour and 1 x Surgical Consultant working 20 hours a week for 12 weeks at a total charge rate of £75 per hour. The trust retains responsibility for bookings, managing theatre and recovery.
Framework	RM6276 Insourced Services to Support the Provision of Healthcare Services Framework	RM6281 Clinical Healthcare Staffing Framework or RM6277 Non Clinical Staffing Framework

*These requirements shall not apply to the extent that the supplier is a member of and maintains membership of the indemnity schemes run by NHS Resolution. Suppliers can only join the scheme if they have been commissioned by an ICB or NHSE. Suppliers are unable to join if the work has been commissioned directly by a trust.

Other Helpful Resources

Contracted-Out-Service vs Supply of Resource Determination Tool

The Tax Centre of Excellence have produced a **Contracted-Out-Service vs Supply of Resource Determination Tool** to help public sector bodies determine when a contract represents a supply of resource and therefore whether off-payroll worker legislation needs to be considered.

The tool contains a questionnaire to explore the intention behind the procurement, the nature of the contract and the operation of the contract in practice; articulates the risk that the contract represents a supply of resource; contains a decision maker sign-off sheet; and acts as a template for documenting and retaining an audit trail of the decision and rationale behind it.

To access the tool and further guidance, trusts need to register here: [Contracted-out-service versus supply of resource](#)

NHSE Guidance for Trusts on the Use of Insourcing

Trusts are also reminded of the NHS England guidance for trusts on the use of insourcing that can be found here - [NHS England guidance for trusts on the use of insourcing](#)

NHS Indemnity Scheme

More information can be found here - [General Practice Indemnity - NHS Resolution](#)

NHS Payment Scheme

More information can be found here - [NHS England - NHS Payment Scheme](#)